

EXHIBIT 1

INTRODUCTION

Respondent De Anza College (the “College”) is a community college located in Cupertino, and one of two colleges in the Foothill-De Anza Community College District (the “District”). The other college in the District is Foothill College.

In June 1999, the District placed a \$248 million bond measure, identified as Measure E, on the November 1999 Santa Clara County ballot to help pay for infrastructure repair, renovation, and rehabilitation of Foothill College and Respondent College.

In November 1999, Respondent College made a campaign contribution, in the amount of \$75,000, to the Citizens for Foothill-De Anza, a Committee to Support Measure E, in a name other than its own legal name, in violation of the Political Reform Act (the “Act”).¹ Respondent College made this contribution through an arrangement with the De Anza Associated Student Body (the “DASB”), whereby the DASB issued the contribution check to the Measure E campaign, and Respondent College paid the DASB’s 1999-00 fiscal year obligation to the District for the Hinson Campus Center Expansion, in the amount of \$75,000. By paying the DASB’s \$75,000 payment to the District for the Campus Center Expansion for the 1999-00 budget year using Campus Center Enterprise Funds, Respondent College in effect reimbursed the DASB for its contribution to the Measure E campaign, and thus became the true source of the contribution.

Once Respondent College made the \$75,000 contribution, it qualified as a “major donor committee” under the Act. As a major donor committee, Respondent College was required by the Act to file a semi-annual campaign statement, commonly known as a “major donor statement,” disclosing its contributions during the reporting period January 1, 1999 through December 31, 1999. Respondent College failed to file a semi-annual campaign statement disclosing the campaign activity of Respondent College during the period January 1, 1999 through December 31, 1999, in further violation of the Act.

For the purposes of this stipulation, Respondent’s violations of the Act are stated as follows:

COUNT 1: On or about November 17, 1999, Respondent De Anza College made a \$75,000 contribution to Citizens for Foothill-De Anza, a Committee to Support Measure E, in the name of the De Anza Associated Student Body, instead of its own name, in violation of section 84301.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

COUNT 2: Respondent De Anza College failed to file a semi-annual campaign statement, by January 31, 2000, for the reporting period January 1, 1999 through December 31, 1999, in violation of section 84200, subdivision (b).

SUMMARY OF THE LAW

Prohibition: Making a Contribution in the Name of Another Person

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. In order to obtain disclosure of the true source of a contribution, section 84301 provides that no contribution shall be made, directly or indirectly, by any person in a name other than the name by which that person is identified for legal purposes.

Section 82015, subdivision (a) defines a “contribution” as a “payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.”

Major Donor Committee: Filing Requirements

Section 82013, subdivision (c) includes within the definition of “committee” any person or combination of persons who directly or indirectly makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to, or at the behest of, candidates or committees. This type of committee is commonly referred to as a “major donor” committee.

Section 84200, subdivision (b) requires a major donor committee to file a semi-annual campaign statement for any reporting period in which the committee makes campaign contributions. The first semi-annual campaign statement covers the reporting period January 1 to June 30, and must be filed by July 31. The second semi-annual campaign statement covers the reporting period July 1 to December 31, and must be filed by January 31 of the following year. Pursuant to section 82046, subdivision (b), if a person has not previously filed a campaign statement for any calendar year in which it is required to file a statement, the reporting period covered begins on January 1 of that year. Section 84215, subdivision (d) requires a major donor committee supporting local measures to be voted upon in any number of jurisdictions within a single county to file the committee’s campaign statements with the clerk of the county.

SUMMARY OF THE FACTS

Respondent College is a community college located in Cupertino, and one of two colleges in the Foothill-De Anza Community College District.

COUNT 1
Making a Contribution in the Name of Another Person

The DASB is a voluntary association, responsible for the administration and management of student government and student extracurricular activities on Respondent's campus. The student government is administered through the DASB's Senate, a body of elected student representatives, which is responsible for administering the DASB's budget of non-public funds.

At all times relevant to this matter, the DASB was subject to an arrangement with Respondent College District that called for the DASB to make an annual payment to the District to help pay off the District's mortgage loan for the Hinson Campus Center Expansion. This arrangement, termed an indebtedness, is memorialized in a memorandum of understanding with Respondent College, that created a reserve fund and restricted the use of money in that fund to ensure that funds would be available for making the payments. The memorandum of understanding set the annual payment toward the Campus Center Expansion mortgage debt for 1999-00 at \$75,000.

Measure E was a \$248 million bond measure placed on the November 2, 1999 Santa Clara County ballot by the District to help raise funds to pay for infrastructure repair, renovation, and rehabilitation of the Foothill College and Respondent College. At all times relevant to this matter, the Measure E campaign was under-budget.

On September 22, 1999, the President of Respondent College, the Vice President of Finance and College Services of Respondent College, and the Director of College Services of Respondent College, accompanied the President of the District Board of Trustees to a meeting of the DASB Senate. The President of the District Board of Trustees, on her own time, asked the DASB Senate to make a \$100,000 contribution to the Measure E campaign.

On October 13, 1999, the President of Respondent College and the Vice President of Finance and College Services of Respondent College attended a subsequent meeting of the DASB Senate, and answered the students' questions concerning Measure E. The minutes state that the Executive Vice President of the DASB asked them whether Campus Center funds could be used to pay for the DASB's own expenses, so that the DASB's reserve funds for the Campus Center Expansion mortgage payment could be used for Measure E. The executive staff of the DASB had determined that the DASB did not have any available funds in its budget that were not already encumbered in the 1999-00 DASB budget. The Vice President of Finance and College Services responded that Campus Center funds could not be used for the Measure E campaign. Subsequently, the administration of Respondent College determined that the Campus Center had sufficient funds to absorb the DASB payment toward the Campus Center Expansion mortgage obligation for the 1999-00 budget year, and based on that determination recommended that Respondent College pay the annual \$75,000 payment from the Campus Center Enterprise Fund instead of obtaining the funds from the DASB.

On October 20, 1999, the students were informed of the determination of the Respondent College administration at a DASB Senate meeting. The minutes state the executive vice president of the DASB announced that the Chancellor Advisory Council, of which the President

of Respondent College was a member, had given its approval for the DASB to forego its annual \$75,000 payment toward the Campus Center Expansion mortgage payment, thereby freeing up those funds for the DASB's use for the Measure E campaign. Additionally, the executive vice president of the DASB announced that the Campus Center Board would be voting to strike this amount from the DASB 1999-00 budget, and to pay for the Campus Center Expansion mortgage payment using the Board's own revenues. At this meeting, the DASB tabled for one week a motion to approve a \$75,000 contribution for the Measure E campaign, given that the Campus Center Board approved of striking the mortgage amount from the DASB budget and guaranteed that the DASB would not be indebted for that mortgage payment for the 1999-00 budget year.

At the October 25, 1999 meeting of the College Campus Center Board, the Director of Budget & Personnel of Respondent College sponsored an agenda item to relieve the DASB of its \$75,000 payment for the Campus Center Expansion mortgage payment. A motion was made for the Campus Center Enterprise Fund to absorb the \$75,000 DASB payment out of its budget for the year, to allow a DASB student contribution to support Measure E. The plan was approved by a majority voice vote.

At the October 27, 1999 meeting of the DASB Senate, the students approved making a \$75,000 contribution to the Measure E campaign. The contribution to the Measure E campaign was to be effectuated by a transfer of \$75,000 from the budgeted line item for the mortgage payment for the Campus Center Expansion and moved to a new item to be called "Measure E."

The DASB made a \$75,000 contribution to the Measure E campaign. The DASB requisitioned the contribution check, in the amount of \$75,000, on or about November 11, 1999, and issued the \$75,000 contribution to the Measure E campaign, on or about November 17, 1999. A semi-annual campaign statement for Citizens for Foothill-De Anza, filed with the Santa Clara County Registrar of Voters on December 23, 1999, disclosed a \$75,000 contribution from the DASB. The statement reported receiving the contribution on November 20, 1999.

Respondent College, through the Campus Center Enterprise Fund, paid the DASB's \$75,000 Campus Center Expansion mortgage payment to the District for the 1999-00 budget year. On or about December 17, 1999, Respondent's Campus Center paid half of the DASB's \$75,000 Campus Center Expansion mortgage payment to the District for the 1999-00 budget year, in the amount of \$37,500, using Campus Center Enterprise Funds. It paid the balance, in the amount of \$37,500, to the District, on or about May 5, 2000, using Campus Center Enterprise Funds.

By paying the DASB's \$75,000 payment to the District for the Campus Center Expansion for the 1999-00 budget year using Campus Center Enterprise Funds, Respondent College in effect reimbursed the DASB for its contribution to the Measure E campaign. By reimbursing the DASB for its contribution to the Measure E campaign, Respondent College effectively made a contribution to the Citizens for Foothill-De Anza committee in the name of the DASB, instead of its own name. The administration of Respondent College, operating on a mistake of law, believed that this transaction was legal.

By making a contribution to the Citizens for Foothill-De Anza committee, in the name of

the DASB, instead of its own name, Respondent College committed a violation of section 84301.

COUNT 2

Failure to File Semi-Annual Campaign Statement

Once Respondent College qualified as a major donor committee, by making said \$75,000 contribution described in Count 1 above, it had a duty under section 84200, subdivision (b) to file a semi-annual campaign statement with the Santa Clara County Registrar of Voters, disclosing the contributions that it made during the period January 1, 1999 through December 31, 1999. The filing deadline, for a semi-annual campaign statement for the reporting period ending December 31, 1999, was January 31, 2000.

Respondent College failed to file a semi-annual campaign statement by January 31, 2000.

By failing to file a semi-annual campaign statement by January 31, 2000, for the reporting period January 1, 1999 through December 31, 1999, Respondent College committed a violation of section 84200, subdivision (b).

CONCLUSION

The making of a contribution in the name of another person is one of the most serious violations of the Act, as it obscures from the voting public the true source of campaign support and contributions. The typical administrative penalty for a violation of this kind has historically been at or near the maximum penalty of \$2,000 per violation, depending on the circumstances of the violation.

Similarly, the typical administrative penalty for failing to file a major donor campaign statement in connection with making a contribution in the name of another person has historically been at or near the maximum penalty of \$2,000 per violation.

This matter consists of two counts, which carry a maximum administrative penalty of Four Thousand Dollars (\$4,000). The facts of this case, including the factors discussed above, justify imposition of the agreed upon penalty of Four Thousand Dollars (\$4,000).